

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

1	UNITED STATES OF AMERICA,)	CR. NO. 19-00099-DKW-KJM
2)	
3	Plaintiff,)	Honolulu, Hawaii
4)	
5	vs.)	April 30, 2024
6)	
7	MICHAEL J. MISKE, JR.,)	FURTHER JURY TRIAL - DAY 60
8)	
9	Defendant.)	(TESTIMONY OF GOVERNMENT'S
)	WITNESS FREDERICK C.
)	KALUNA, JR.)

PARTIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DERRICK K. WATSON
CHIEF UNITED STATES DISTRICT COURT JUDGE

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United States District Court
300 Ala Moana Boulevard, Room C-338
Honolulu, Hawaii 96850

Proceedings recorded by machine shorthand, transcript produced
with computer-aided transcription (CAT).

1 I N D E X

2 WITNESS: PAGE NO.3 FOR THE GOVERNMENT:

4 FREDERICK C. KALUNA, JUNIOR

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1 TUESDAY, APRIL 30, 2024

12:48 O'CLOCK P.M.

2 * * * * *

3 (Start of partial transcript:)

4 (Open court in the presence of the jury.)

5 THE COURT: The government's next witness,
6 Mr. Inciong.

7 MR. INCIONG: Thank you, Your Honor.

8 The United States called Frederick Kaluna, Junior.

9 COURTROOM MANAGER: Please raise your right hand.

10 FREDERICK C. KALUNA, JUNIOR, GOVERNMENT'S WITNESS, SWORN.

11 THE WITNESS: Yes, ma'am.

12 COURTROOM MANAGER: Thank you. You may be seated.

13 Please state your full name, spelling your last name
14 for the record. Thank you. You can sit down.

15 THE WITNESS: Frederick C. Kaluna, Junior.

16 K-A-L-U-N-A, Junior.

17 DIRECT EXAMINATION

18 BY MR. INCIONG:

19 Q Good afternoon, sir.

20 A Good afternoon.

21 Q How old are you?

22 A 41.

23 Q Were you born in Hawaii?

24 A Yes, sir.

25 Q Did you grow up here?

1 A Yep.

2 Q what high school did you go to?

3 A Kaimuki.

4 Q At one point did you leave Hawaii for work opportunities?

5 A Yes, sir. 2019.

6 Q what kind of work are you doing currently?

7 A I'm currently a truck driver.

8 Q when you were in Hawaii after you graduated from high
9 school, what kind of work did you do?

10 A I worked on IATSE, International Alliance union, movie
11 industry.

12 Q That's a movie industry union?

13 A Union, yeah.

14 Q what kind of work were you doing for the IATSE?

15 A I was rigging grips, rigging electric, etc.

16 Q So for those of us that don't know the union lingo, what
17 does rigging grips mean?

18 A Rigging grips are pretty much -- pretty much hoist things
19 up to get the lighting where they gotta go or, vice versa,
20 whatever they need up in the air, we'll be the ones rigging it
21 up and make sure it's stable.

22 Q How long did you work for the union?

23 A 19 years.

24 Q So were these -- a lot of the work revolved around movies
25 that were being produced here in Hawaii?

1 A Yeah.

2 Q would you work at different locations around the island?

3 A Different locations, different movies.

4 Q Were you working for the IATSE in May of 2017?

5 A Yes, I was.

6 Q Do you recall specifically working on May 23rd of 2017,
7 that year, at Kualoa Ranch?

8 A Yep.

9 Q Do you recall the project you were working on at that
10 time?

11 A Yes, sir.

12 Q what was that?

13 A Jurassic Park, Jurassic Kingdom.

14 Q what were you doing in May of 2017 for that particular
15 movie?

16 A I was working with rigging grips.

17 Q So just what you just described?

18 A Mm-hmm.

19 Q All right.

20 MR. INCIONG: Could we show the witness and publish,
21 please, Exhibit 1-62, which has been previously admitted from
22 our original exhibit list?

23 THE COURT: Go ahead.

24 MR. INCIONG: And if we could zoom in on the photo,
25 please.

1 BY MR. INCIONG:

2 Q Mr. Kaluna, do you know who the individual is in the
3 photograph marked 1-62?

4 A Yes.

5 Q who is that?

6 A Lindsey Kinney.

7 Q How did you know Lindsey Kinney?

8 A We worked on the same crew.

9 Q He was part of that same union with you?

10 A Yep.

11 Q was he working with you on the Jurassic Park set on
12 May 23rd, 2017?

13 A Yes.

14 Q were you working with him on that specific day?

15 A Yeah.

16 Q Do you recall taking a lunch break that day?

17 A Yes, sir.

18 Q Did you go to pick up food for some of your coworkers?

19 A Yeah.

20 Q where did you go?

21 A We went to Waikane, what you call that, the Waikane Store,
22 to pick up some food.

23 Q That's nearby Kualoa Ranch?

24 A Right down the road.

25 Q Did anyone go with you?

1 A Was me. It was me -- I mean, they met us there. Norm and
2 them.

3 Q Okay. So did you pick up lunch and then bring it back
4 to --

5 A Bring it back to where we was, yeah.

6 Q Who were you bringing lunch back for that day?

7 A Our crew.

8 Q And Lindsey Kinney was one of those crew?

9 A Lindsey Kinney, yeah.

10 Q After you got back, did you drop off lunch for them?

11 A Yes, sir.

12 Q Was there another person on your crew by the name of Mitch
13 McConnell?

14 A He wasn't part of the crew, but yeah.

15 Q He was part of the union?

16 A Part of the union.

17 Q Working at the ranch on that day?

18 A Mm-hmm.

19 Q Okay. Did Mr. McConnell approach you after you got back
20 from bringing lunch for your crew members?

21 A Yes, sir.

22 Q What did he approach you about?

23 A Told us that -- to get out of this area. It's going be
24 ugly.

25 Q What did you take that to mean?

1 A Sorry?

2 Q what did you take that to mean?

3 A To get outta there. You know, not going be one good place
4 to be.

5 Q what did you do?

6 A I ended up jumping on -- well, ended up first, I got out
7 of there, you know, jumped on the Polaris and trying to start
8 that up. It wouldn't start, then I got it to start and I
9 headed out of there.

10 Q The Polaris is a --

11 A ATV.

12 Q Okay. Did you see anybody arriving before you were able
13 to get the Polaris started and leave?

14 A Yeah.

15 Q what did you see?

16 A I seen a couple cars pulling in. And I seen one Mike
17 Miske come up.

18 Q Let me ask you about the cars first. So do you recall how
19 many different vehicles you saw?

20 A Yeah, three of 'em.

21 Q Do you recall the make or model of any of those?

22 A One was one Jeep Cherokee. One was one Civic and one
23 black -- a white Civic, and then one was one black F-250.

24 Q Truck?

25 A Truck, yes, sir.

1 Q Do you recall the color of the Jeep Cherokee?

2 A I think was tan.

3 Q Now, you said you saw someone get out of one of those
4 vehicles?

5 A Yeah.

6 Q Which vehicle did you see the first person get out of?

7 A I seen 'em come out from the Jeep Cherokee.

8 MR. INCIONG: Could we show the witness Exhibit 1-37,
9 and also publish it? It's been previously admitted from our
10 original list.

11 THE COURT: You may.

12 BY MR. INCIONG:

13 Q Mr. Kaluna, do you recognize the individual marked in the
14 Exhibit 1-37?

15 A Yeah.

16 Q How do you recognize that person?

17 A I seen him come out.

18 Q This is the person you're referencing?

19 A Yeah.

20 Q That you saw get out --

21 A Mike Miske.

22 Q Okay. Did you know his name at the time?

23 A I knew of him.

24 Q Okay. Did you -- how did you later learn that this person
25 you saw get out of the Jeep was Mike Miske?

1 A Oh, I seen his face.

2 Q Okay.

3 A Yeah.

4 Q Do you see the person you saw get out of the tan Jeep
5 Cherokee in the courtroom today?

6 A Yep.

7 Q Could you indicate where that person is seated and --

8 A Sitting right there, with his gray suit on.

9 Q When you say over there, what table are you referring to?

10 A The left side.

11 Q Okay.

12 MR. INCIONG: Your Honor, may the record reflect
13 Mr. Kaluna has identified the defendant?

14 THE COURT: Yes. The record should reflect the
15 witness, Mr. Kaluna's identification of the defendant,
16 Mr. Miske.

17 BY MR. INCIONG:

18 Q So as you saw Mr. Miske get out of this tan Jeep Cherokee,
19 what did you see next?

20 A I seen him approach Norman Akau.

21 Q Okay. How do you know Norman Akau?

22 A He was our head, our head of our -- our union. Well, not
23 union. Of our --

24 Q Crew?

25 A A crew. Yes, sir.

1 Q Okay.

2 MR. INCIONG: Could we show the witness and publish
3 Exhibit 1-33 --

4 THE COURT: Yes.

5 MR. INCIONG: -- admitted from our original list?

6 BY MR. INCIONG:

7 Q Do you see that photo?

8 A Yes, sir.

9 Q Do you recognize who that is?

10 A Norman Akau.

11 Q Okay. So Mr. Akau approached you -- or I'm sorry.

12 A No, he didn't approach me. He -- Mike Miske approached
13 him.

14 Q Okay. What did you observe then?

15 A He told him: Where is that guy at? Where Lindsey Kinney
16 stay?

17 Q Who said that?

18 A Mike Miske.

19 Q Okay.

20 A And then that's how everything -- he went in the back to
21 grab Lindsey. Lindsey took off his chain, gave 'em to -- to
22 Norman Akau, and then he walked straight towards the trailers.

23 Q Okay. So let me just go back and make sure we have this
24 clear.

25 So Mr. Miske was the one that asked where is Lindsey

1 Kinney?

2 A Mm. Yes, sir.

3 Q And then you saw Mr. Akau walk back where?

4 A walked towards where Lindsey was working at.

5 Q Okay. And were you close enough to hear what -- anything

6 that was being said between Norman Akau and Lindsey Kinney

7 or --

8 A No.

9 Q Okay. You saw Mr. Kinney do something?

10 A Yeah. I saw Lindsey Kinney take off his chain.

11 Q Okay. When you say his chain, are you talking about a --

12 A His --

13 (Simultaneous speaking.)

14 BY MR. INCIONG:

15 Q When you say chain, what do you mean?

16 A He took off his chain that he had on and hand it to Norman
17 Akau.

18 Q Okay. Did you see him hand Norman Akau anything else?

19 A No.

20 Q What did Mr. Kinney do then?

21 A He walked straight towards where Mike Miske and them was.

22 Q Was Mr. Miske still nearby this Jeep Cherokee?

23 A He was by his -- yes.

24 Q What did you see next?

25 A I seen, what you call that, he was next to a -- a white

1 car. And he had his, what you call that, hands on the roof.

2 And then all of a sudden, this guy came popping out. Looked

3 like a ninja. I couldn't tell how he looked. And shot two

4 shots towards Lindsey.

5 Q Okay. So let me go back and again make sure I understand

6 it correctly.

7 So you say -- you said someone had their hand on the car.

8 who --

9 A Yes, sir.

10 Q Who are you referring to?

11 A Mike Miske.

12 Q Okay. He had his hand on what car?

13 A The white car. The white Civic.

14 Q What made you notice that?

15 A He was standing right there, right next to it.

16 Q Okay. Did he place his hand on the car?

17 A Yeah.

18 Q Okay. And what happened then?

19 A And then a guy popped out. Looked like a ninja.

20 Q And what do you mean by that, looked like a ninja?

21 A Like, you couldn't tell what skin color he was.

22 Q What was the person wearing?

23 A All blacked out, like a ninja.

24 Q Head to toe?

25 A Head to toe.

1 Q wearing a mask?

2 A Mm-hmm.

3 Q what -- how would you describe that person's body, body
4 type?

5 A He was like heavier built, sloppy. You know, heavier
6 build.

7 Q Okay.

8 A Yeah.

9 Q So that -- the person dressed as a ninja got out and fired
10 two shots?

11 A Yes, sir.

12 Q Like immediately after they got out of the white car?

13 A Yeah. Ran towards Lindsey, shot two shots.

14 Q So describe it. Was this two shots, like bam, bam? Or
15 was that a space of time in between the two?

16 A Yeah. Bam, bam. Mm-hmm.

17 Q How far away was Lindsey Kinney from the person dressed as
18 a ninja?

19 A I'm not too sure because he -- once that shots went out,
20 he ran towards the brush.

21 Q Okay. So, I mean, when the shots were fired, how close
22 was the ninja to Lindsey Kinney?

23 A Say like 25 feet, 30 feet away.

24 Q So Mr. Kinney's reaction was to start running?

25 A Running as soon as he seen, yeah. Sorry.

1 Q Was he running before the shots were even fired?

2 A Yeah.

3 Q Did the person dressed as a ninja follow him at all?

4 A No. Just ran after him. Shot two shots. Stopped.

5 Q What happened then?

6 A And then another guy, another person came out from the
7 other side and shot.

8 Q Came out from the other side of where?

9 A Yes, sir. Of the car.

10 Q Which car?

11 A The white Civic.

12 Q This is the same one that a person dressed as a ninja came
13 out of?

14 A Yeah.

15 Q Okay. What did that person look like?

16 A I couldn't tell. He was just fair skin.

17 Q What did you see that person do?

18 A He shot two shots as well.

19 Q Were these in succession, like one after another or any --

20 A Yeah.

21 Q -- time between?

22 A Like: Boom. Boom.

23 Q How far did he get away from the car as he was shooting,
24 or did he stay?

25 A Oh, he -- he stayed like right -- almost in front of the

1 car.

2 Q So let me ask you. Now, so you saw both of these
3 individuals fire the shots, correct?

4 A Mm-hmm.

5 Q So what -- were you able to see the direction that they
6 were firing?

7 A Yeah. They fired towards Lindsey Kinney.

8 Q Was -- were their arms --

9 A Mm-hmm.

10 Q -- outstretched when they were shooting?

11 A Yes, sir.

12 Q Were their arms like straight out, like parallel with the
13 ground? Were they up in the air? How were they --

14 A Parallel with the ground.

15 Q Both?

16 A Both.

17 Q Both individuals?

18 A Mm-hmm.

19 Q Both times in the direction of Lindsey Kinney?

20 A Yeah.

21 Q So four shots total?

22 A Four shots.

23 Q Two from each person?

24 A Yes, sir.

25 Q After the second person had fired the second shot, what

1 happened after that?

2 A Then they hopped into their vehicles and they got out of
3 there.

4 Q So the person dressed as a ninja got back into the white
5 car?

6 A Yes, sir.

7 Q The other shooter got back into the white car as well?

8 A Mm-hmm.

9 Q what car did Mr. Miske get back into?

10 A Into his Jeep Cherokee.

11 Q Did you ever see anyone get out of the black truck?

12 A No.

13 Q where did those cars go then?

14 A How they came in.

15 Q what did you do then?

16 A I came back down where -- where everybody was at to see if
17 everybody was okay.

18 Q Did you see Lindsey Kinney?

19 A Yeah.

20 Q where? where was he at that time?

21 A He was coming out from the brushes where he was running
22 to.

23 Q what was Mr. Kinney's demeanor at that time?

24 A Rage. Furious. Revenge.

25 Q Did you -- did he ask you to take you anywhere -- take him

1 somewhere?

2 A Yeah.

3 Q where did you take him?

4 A I took him to He'eia Kea pier, Kaneohe pier.

5 Q why did he want you to take him there?

6 A To drop him off.

7 Q Do you know why he wanted to go to that specific spot?

8 A I don't know why.

9 Q How long a drive is that, about?

10 A About 20 minutes.

11 Q So just you and Mr. Kinney there?

12 A Yes, sir.

13 MR. INCIONG: Could we show the witness and publish
14 Exhibit 1-668, please, previously admitted from our original
15 list?

16 THE COURT: Go ahead.

17 BY MR. INCIONG:

18 Q Mr. Kaluna, do you see this overhead shot of what's titled
19 the Kualoa Ranch Property Base Camp?

20 A Yes, sir.

21 Q Does this -- not to scale, but does this accurately show
22 just at least the configuration of that area when you were
23 working on May 23rd of 2017?

24 A Yes, sir.

25 Q Now, do you see there's a -- in, I guess, towards the

1 upper left-hand corner, there's a notation, it says Denny's
2 Gate?

3 A Yes, sir.

4 Q What is that?

5 A That's where we usually come in and out of that -- that
6 area.

7 Q Is that where the --

8 A That's -- sorry.

9 Q Is that where those -- the three cars you saw --

10 A Yes, sir.

11 Q -- came from?

12 And is that where -- the way that they went back out?

13 A Yeah.

14 Q Now, do you see on the -- the diagram there's a black --
15 black shape that's denoting a car that's labeled F-150?

16 A Mm-hmm.

17 Q And then next to it is a Jeep with a tan or beige-ish
18 color, and then next to that is a -- it says Lexus, with a
19 whitish color?

20 A Yeah.

21 Q Are those accurate descriptions of the models of the three
22 cars that you saw?

23 A Mm-hmm.

24 Q Is this where they were parked after they came in and --
25 into that area the day you saw them?

1 A They was little bit right here in this area (indicates),
2 parallel where the -- the vehicles was parked.

3 Q Okay. So you're -- you're writing on a little bit to the
4 left more?

5 A Little bit to the left, correct.

6 Q More in front of where it says roll-off?

7 A Mm-hmm.

8 Q All three of the cars?

9 A Yeah.

10 Q Okay. Do you see the area below that where it says
11 vehicles, and there's like some stripes like those are parking
12 spaces?

13 A Mm-hmm.

14 Q Now, there are no vehicles that are shown on this map.
15 were there vehicles parked there that day?

16 A Yes, sir.

17 Q Is that where you and the other workers would park?

18 A Right there.

19 Q Do you see where it says "grip truck"?

20 A Mm-hmm.

21 Q There are two white rectangles next to those. what are
22 those indicating?

23 what are those white rectangles?

24 A That was where we put our equipment.

25 Q Okay. Are those containers?

1 A Containers, yes, sir.

2 Q And then there are two more containers, then, to the right
3 of those first two?

4 A Mm-hmm.

5 Q Now, do you see in the -- the right edge of that there's
6 another -- there's a little white marker that has your name
7 there?

8 A Hmm.

9 THE COURT REPORTER: For the record?

10 A Yes.

11 BY MR. INCIONG:

12 Q Is that a "yes"? Okay.

13 So you said that you started this ATV, this Polaris, and
14 you got out of there. So using the touchscreen like you did,
15 could you show where, first of all, where you were on this map
16 when you first saw the cars move in and then where you drove to
17 on the ATV?

18 A With the pen?

19 Q Sure.

20 A Okay. Well, I was working right here, at this first
21 container, unloading and loading equipment when I seen his cars
22 pulling up.

23 Q Okay.

24 A And then I already knew like, okay, this must be those
25 guys, you know, coming over here.

1 Then I came around (indicates) and had the Polaris, was
2 parked right here (indicates).

3 Q Okay.

4 A And then I jumped on the Polaris, got that to start.

5 I got it started, and then I ended up over here
6 (indicates).

7 Q Okay. So for the record, you're showing you were at the
8 first container, just to the right of where it says "grip
9 truck." And you ran behind those to where the Polaris was,
10 started that up, drove in between the two pairs of containers
11 and then kind of made a right, and then went past where it says
12 "kaluna," up into the trees up there on the far right edge?

13 A Yes, sir.

14 Q Okay. So from where -- you've indicated where you stopped
15 there to where the F-150, the Jeep, and the Lexus were. How
16 far would you estimate that is?

17 A would say about 200 feet.

18 Q Is this all flat or is this elevated?

19 A It's elevated.

20 Q So were you actually above?

21 A I -- I was above.

22 Q Looking down, 'cause it's kind of like a bowl down below?

23 A Mm.

24 Q Yes?

25 A Yes.

1 Q Okay. So you said that you couldn't see the second -- you
2 couldn't make out his features, just that he was pale?

3 A Yeah. Yes.

4 Q Was that person wearing a mask?

5 A No.

6 Q The person dressed as a ninja was wearing a mask?

7 A Head to toe, yes, sir.

8 Q Okay.

9 Now, show us, if you could, where Lindsey Kinney and
10 Mr. Miske were when they -- when they first met or were going
11 to meet.

12 A It was right here (indicates), ending of the container.

13 Q So that the sign or the little marker that says roll-off,
14 that's where Mr. Miske was?

15 A Yeah.

16 Q And Lindsey Kinney was walking toward him?

17 A Towards him.

18 Q Okay. How close did Mr. Kinney get to Mr. Miske before
19 the shots were fired?

20 A Jeez, about 20, 25 yards.

21 Q Okay. So where did Mr. Kinney run to then after the shots
22 were fired?

23 A So he -- he was right here (indicates), then he ran all
24 the way to right here (indicates), to the brushes.

25 Q Okay. So you're showing -- you've just drawn from he was

1 in the front of that, the grip truck, right there by that
2 container, which -- straight down past the X into the -- the
3 brush there?

4 A Yep. Yes, sir.

5 Q And how thick or tall is that brush there?

6 A Well, it's pretty thick. It's pretty tall.

7 Q How long did -- how long was it before you saw Mr. Kinney
8 again after the three vehicles had left the area?

9 A Wasn't too long. Once I came down, he came out and
10 started, you know, raging some words, saying things.

11 Q All right. So when you drove him to -- was it He'eia
12 pier?

13 A Yeah, He'eia Kea.

14 Q Was it just the two of you?

15 A Yes, sir.

16 Q What was his state or demeanor during the drive over
17 there?

18 A Revenge. Want to go after Mike Miske.

19 Q Was he talking?

20 A Yes, sir.

21 Q Loudly?

22 A Super loud. Venting, saying: This guy set me up. Mitch
23 set him up, you know, saying inside the truck that he got set
24 up by Mitch.

25 Q Who is Mitch again?

1 A One of the Teamster drivers.

2 Q why did he think Mitch set him up?

3 A Because Mitch was the one that told all of us to -- to
4 leave the -- the area.

5 MR. INCIONG: Could we show for the witness only
6 Exhibit 1-687, please, Your Honor? This has not yet been
7 admitted from our original list.

8 THE COURT: Go ahead.

9 THE WITNESS: (Views recording.)

10 BY MR. INCIONG:

11 Q Mr. Kaluna, prior to coming to court to testify today, did
12 you have a chance to view and listen to the -- the video that's
13 just been shown?

14 A Yes, sir.

15 Q Do you know where that -- Mr. Kinney was located when that
16 video was taken?

17 A Mm-hmm.

18 Q where?

19 A In my truck.

20 Q was this during the drive --

21 A Yeah.

22 Q -- from Kualoa to He'eia?

23 A Mm, yes, sir.

24 Q was he sitting right next to you?

25 A Yep.

1 MR. INCIONG: Your Honor, I would move to admit 1-687
2 at this time.

3 THE COURT: Any objection?

4 MR. KENNEDY: Yes, Your Honor. I have to listen to
5 it first, unless the government's admitting it as-is.

6 MR. INCIONG: We can put it on the headphones, Your
7 Honor.

8 THE COURT: Yes. Go ahead.

9 I assume the government is offering it with audio?

10 MR. INCIONG: Yes, Your Honor.

11 THE COURT: All right.

12 No, I'm not getting any audio.

13 (Recording played for the Court and counsel only.)

14 THE COURT: All right. We've heard the audio and
15 seen the video.

16 Any objection, Mr. Kennedy?

17 MR. KENNEDY: No objection.

18 THE COURT: 1-687 is admitted then without objection.

19 (Government Exhibit 1-687 received in evidence.)

20 THE COURT: You may play it for the jury.

21 MR. INCIONG: Thank you, Your Honor.

22 (Recording played in open court.)

23 BY MR. INCIONG:

24 Q So, Mr. Kaluna, this was during the drive from Kualoa
25 Ranch right after the shooting on the way to He'eia?

1 A Yep. Yes, sir.

2 Q Mr. Kinney was not happy?

3 A Mm-mm.

4 Q Did you drop him off at the pier?

5 A Yes, sir.

6 Q Where did you go from there?

7 A I went to the airport.

8 Q Did you ever see Mr. Miske again?

9 A No.

10 Q Was there any discussion about this incident after, after
11 when he got back to work?

12 A No.

13 Q Nobody talked about it?

14 A No.

15 Q They wanted to keep it quiet?

16 A Yes, sir.

17 MR. INCIONG: Thank you, sir.

18 I have nothing further, Your Honor.

19 THE COURT: Cross-exam?

20 MR. KENNEDY: Yes.

21 Could we pull up 1, dash -- I think it's 668. Or is
22 that the -- let me check.

23 MR. INCIONG: It's 668, yeah. The map, yeah.

24 MR. KENNEDY: All right.

25 THE COURT: Go ahead.

1 MR. KENNEDY: Thank you.

2 CROSS-EXAMINATION

3 BY MR. KENNEDY:

4 Q So if I understand your testimony today, sir, you -- and
5 let me see if I could recreate it.

6 You were over by the -- somewhere around the grip trucks,
7 right?

8 A Yes, sir.

9 Q And then I don't know if I've got the movement entirely
10 correct, but you were back over here, you indicated?

11 A Yes, sir.

12 Q All right. And then where the -- the F-150 and the Lexus
13 and the Jeep are indicated on the map, you had it over here
14 (indicates); is that correct?

15 A Mm-hmm.

16 Q All right. So that should be over in this direction,
17 correct?

18 A Yes, sir.

19 Q All right. And then you had -- I believe you said that
20 over in this area was Lindsey Kinney, correct?

21 A Yes, sir, he was right here (indicates).

22 Q All right. And Mr. Miske was coming this direction
23 (indicates), you just testified?

24 A Yes, sir.

25 Q All right. And as Mr. Miske and Mr. Kinney were coming

1 towards each other, did you say they got how close, sir?

2 A About 25 feet.

3 Q Okay, about 25 feet. All right.

4 Now, Mr. Miske had -- you were able to see -- I take it
5 you'd given some testimony he was not armed, right?

6 A Nope.

7 Q All right. And then you indicated that Norm Akau took a
8 chain off of Lindsey Kinney?

9 A Not took a chain. Lindsey Kinney handed him his chain.

10 Q Oh, I see.

11 A Yes, sir.

12 Q Thank you for the correction.

13 Norm is the boss, right?

14 A Yes, sir.

15 Q Of the crew?

16 A Yep.

17 Q Lindsey is on his crew?

18 A Yes, sir.

19 Q All right. So Lindsey handed him a chain --

20 A Mm-hmm.

21 Q -- right?

22 Now, when you're in the car, driving after the incident --
23 which we just saw the video, correct?

24 A Mm-hmm.

25 Q Lindsey Kinney has a .45 in his waistband, correct?

1 A No.

2 Q Didn't you tell the ATF that while he was with you in the
3 car he had a .45 in his waistband?

4 A No, sir.

5 Q All right. Let's see --

6 Do you recall speaking to a -- a Gary Graham of the ATF on
7 June 21st of 2017?

8 A Mm-hmm.

9 Q Didn't you tell them that during the time that you and he
10 went after Mr. Miske in the Toyota Tacoma, you observed
11 Mr. Kinney with a black .45 caliber in his -- handgun in his
12 waistband with no holster?

13 A From what I remember, sir, he didn't have no -- from what
14 I remembered, he didn't have no guns.

15 Q All right.

16 MR. KENNEDY: Let's pull up 9268-002, which I believe
17 is in the original exhibit list.

18 THE COURT: No.

19 MR. KENNEDY: Let me see.

20 MS. KING: 39.

21 MR. KENNEDY: Oh, 39, Your Honor. By the date of the
22 exhibit, I thought it would be an original. I'm way off. I
23 apologize.

24 THE COURT: All right. I have it. Go ahead.

25 MR. KENNEDY: My mistake, Your Honor.

1 All right. If we can, let's get rid of this.

2 BY MR. KENNEDY:

3 Q Do you recall speaking with a special agent with ATF by
4 the name of Gary Graham on June 21st of 2017?

5 A Yes, sir.

6 Q And if we can move into the document, let me see. If we
7 move to page -- I believe it's 4.

8 And if we take a look at -- just read to yourself
9 paragraph 13 there, sir.

10 A (Complies.)

11 No, sir.

12 Q Have you read it?

13 A Yes, sir.

14 Q All right. Did you tell Gary Graham on June 21st of 2017,
15 roughly one month after the incident, that you observed
16 Mr. Kinney with a black .45 caliber handgun in his waistband
17 when you were in the Toyota Tacoma?

18 A No, sir. From what I remember, he didn't have no .45
19 caliber.

20 Q Okay. From what you remember?

21 A Mm-hmm.

22 Q All right. We're in 2024, correct?

23 A Yes, sir.

24 Q This was asked of you in 2017, correct?

25 A Mm-hmm.

1 Q Now, if we take this down.

2 Going back to 1-668. And then if I can (indicates).

3 This would be the approximate location where you were at,
4 sir?

5 A Yes, sir.

6 Q All right. The approximate location of where Mr. Kinney
7 was, correct?

8 Oh, right where the green one is. All right. So I will
9 scribble that out.

10 And you had Mr. Miske coming in this direction
11 (indicates), correct?

12 A Mm-hmm.

13 Q And I take it you said that the vehicles were over in this
14 indicate -- this area, right?

15 A (Indicates.)

16 Q All right. And with these vehicles placed over here, you
17 said that from this advantage point you saw four shots, two and
18 then two?

19 A Yes, sir.

20 Q All right. You're aware that only one casing was found?

21 A One casing?

22 Q Yes.

23 A Nope.

24 Q Are you aware that others have testified that there was
25 only one shot in the air?

1 A Nope.

2 Q You and Lindsey Kinney were close, correct?

3 A Mm-hmm.

4 Q You're -- he's a friend of yours, right?

5 A Yep. They all are.

6 Q Were you aware that he was selling ice in pound
7 quantities?

8 A No.

9 MR. INCIONG: Objection, relevance.

10 THE COURT: Sustained.

11 MR. KENNEDY: Nothing further.

12 MR. INCIONG: There's no redirect, Your Honor.

13 THE COURT: Is there anything further for Mr. Kaluna?

14 MR. INCIONG: No. Thank you, Your Honor.

15 THE COURT: Mr. Kaluna, you may step down, sir.

16 (witness excused.)

17 THE COURT: All right. We're at 1:27. I don't
18 imagine we have anything that we can do productively within
19 that short time frame before the end of our normal trial day at
20 1:30, so we'll go ahead and take our leave for the day.

21 As we go to break for the trial day, I'll remind our
22 jurors before we see one another again at 8:30 a.m. tomorrow,
23 to please refrain from discussing the substance of this case
24 with anyone, to refrain from accessing any media or other
25 accounts of this case that may be out there; and finally,

1 please do not conduct any investigation of your own into
2 anything relating to this case.

3 we will see you tomorrow at 8:30, where we will
4 resume at that time.

5 COURTROOM MANAGER: All rise for the jury.

6 (The jury was excused at 1:28 p.m.)

7 (Whereupon, at 1:28 p.m., the proceedings adjourned.)

8 (End of partial transcript.)

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1 COURT REPORTER'S CERTIFICATE

2 I, Ann B. Matsumoto, Official Court Reporter, United
3 States District Court, District of Hawaii, do hereby certify
4 that pursuant to 28 U.S.C. Sec. 753 the foregoing is a
5 complete, true, and correct transcript of the stenographically
6 recorded proceedings held in the above-entitled matter and that
7 the transcript page format is in conformance with the
8 regulations of the Judicial Conference of the United States.

9 DATED at Honolulu, Hawaii, January 14, 2025.

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/s/ Ann B. Matsumoto
ANN B. MATSUMOTO, RPR

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